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Affiliate of Redwood Coast Watersheds Alliance

July 17, 2014

George Gentry, Executive Officer  
Management Committee  
State Board of Forestry and Fire Protection  
P.O. Box 944246  
Sacramento, CA 94244-2460

Subject: Additional Comments Comment - Rule Making Consistent with the Language of AB 904  
– Working Forest Management Plan

Dear Mr. Gentry and Management Committee Members:

The most recent DRAFT of the proposed language for the rules implementing AB 904, Working Forest Management Plan, have made significant improvement in reflecting the intent of AB 904 and the mandate of the legislation to be consistent with all California Code.

However, there are still some outstanding issues which that must be addressed in this rule making process. This letter speaks to the need to include assessment and inventory of potential sediment sources (as proposed by the Regional Board and required by Cal Water Code and the Basin Plan for the North Coast). It appears the committee has issue determining necessity for inclusion of language requiring assessment and inventorying (including prioritizing remediation of sediment control actions necessary to protect beneficial uses) potential sediment sources as part of the sediment control plan for a Working Forest Management Plan. Please refer to Coast Action Groups previous comments (June 4, 2014).

The language of AB 904 is based on the concept of permitting a long term forest stewardship document that is designed to not only protect current resources – were the plan must assess and recover forest productive resources – including water quality and wildlife values. The language in the bill is very clear on this subject.

The following includes a discussion of the logic, benefits, and requirement(s) (under Cal Code and the legislative intent) to include such language:

## Erosion Control

First it must be understood that a source that are actively emitting sediment (to high quality waters or waters that are listed as Impaired – California’s list of Water Quality Limited Segments) is a violation of the Basin Plan (and Cal Water Code). And, in fact, such ongoing violations are subject to Notice of Violation (and penalty – Administrative Civil Liability). Additionally; delivery of such pollutants to surface waters is a violation of the Forest Practice Rules (Act – no plan may be approved that is in violation of the applicable water quality control plan ). The Basin Plan and Cal Water Code call for control of threats to water quality (before they become actual violations). Under the Basin Plan and Cal Water Code (Porter-Cologne ) “potential” pollutant sources are equal to “existing” pollutant sources. Threats water quality must be controlled before they become violations. This applies to all pollution sources, existing or potential – including septic, wastewater, stormwater, etc.. Thus, plans (THPs, NTMPs, WFMPs ) must assess and provide for remedy potential pollutant sources – prior to plan approval.

Note: Once a Violation has been noted by the Regional Board (or CDFW, CalFire) the remedy can not be supported by restoration grants supported by State funding.. This is just one argument for the assessment and remediation of potential sources prior to a violation is noted.

Note: The current THP/NTMP review process supports assessment and remedial consideration of, both, active and potential sediment sources. These CEQA compliant documents are replete with disclosure of the location and nature of active and potential sediment production issues and discussion and description of the remedy – prior to plan completion and/or prior to significant rain events. This discussion/disclosure in the plan is supplemented by an Erosion Control Plan document.

*(j) “Working forest management plan” means a management plan for working forest timberlands, with objectives of maintaining, restoring, or creating uneven aged managed timber stand conditions, achieving sustained yield, and promoting forestland stewardship that protects watersheds, fisheries and wildlife habitats, and other important values.*

The language AB 904 (above) implies stewardship that protects watersheds and fisheries (as well as other forest values). It can be fairly argued that failure to assess and prioritize for remedy of potential sediment sources fails consistency with the above noted objective (as well as mandates under other California Code).

The AB 904 language, below supports the discussion (above) – necessity for inclusion of potential sediment sources :

Prior to plan approval:

*4597.2. (b) A description of the land on which the plan is proposed to be implemented, including a United States Geological Survey quadrangle map or equivalent indicating the location of all streams, the location of all proposed and existing logging truck roads*

This description and mapping should be included as part of Erosion Control Plan (or inventory of roads, erosion sites – ongoing or potential – and schedule for remediation) to be included in the Plan.

As per the following:

*(d) A description and discussion of the methods to be used to avoid significant sediment discharge to watercourses from timber operations. This shall include disclosure of active erosion sites from roads, skid trails, crossings, or any other **structures or sites that have the potential to discharge sediment attributable to timber operations into waters of the state in an amount deleterious to the beneficial uses of water, an erosion control implementation plan, and a schedule to implement erosion controls that prioritizes major sources of erosion***

The AB 904 language is clear. Any CEQA or legal review of this rule making action will support the inclusion of this language in the rule making process.

Finally,:

It is only logical (as noted in the current process of THPs/NTMPs) and the intent of the AB 904 language that plan review shall include:

Field assessment by the RPF (and Regional Board, CDFW, CalFire staff during field review and agency reports).of any and all active and potential sediment sources.

Such sources, and potential sources, shall be disclosed in discussion and mapped .

Assessment shall include a description of the issue, estimate of pollutant contribution, or potential contribution, with discussion of relevant potential – need for remedy, and relationship in a priority continuum (schedule for remedy).

Description of remedial action.

Prioritization and scheduling be maintained on an inventory list where progress to completion of remedial project completion is tracked (and maintained by CalFire and Regional Board Staff).

The above shall be maintained as and “*Erosion Control Implementation Plan*” (as per the specific language of AB 904) – subject to the review and approval of all responsible agency as part of the Review Team. The “*Erosion Control Implementation Plan* “ shall be considered part of the Working Forest Management Plan. Failure to comply with the “*Erosion Control Implementation Plan*” would require revocation of the Working Forest Management Plan

Sincerely,

Alan Levine for Coast Action Group